

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-1464**

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RONALD E. JARMUTH,

Plaintiff - Appellant,

versus

KATHLEEN R. WATERS; JAMES M. FRINZI,

Defendants - Appellees.

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Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, Chief District Judge. (CA-04-63-IMK)

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Submitted: August 17, 2005

Decided: September 1, 2005

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Before NIEMEYER, WILLIAMS, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Ronald E. Jarmuth, Appellant Pro Se. Christopher Andrew Coppula, TUCKER ARENSBERG, P.C., Pittsburgh, Pennsylvania, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Ronald E. Jarmuth seeks to appeal the district court's order dismissing his civil action as to Defendant Kathleen Waters for lack of personal jurisdiction and dismissing for failure to state a claim some but not all of the claims against Defendant James Frinzi. We dismiss the appeal for lack of jurisdiction because the order is not appealable.

This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). We lack jurisdiction because the order here appealed is neither a final order nor an appealable interlocutory or collateral order. See Robinson v. Parke-Davis & Co., 685 F.2d 912, 913 (4th Cir. 1982). We likewise deny Jarmuth's motion to treat the notice of appeal as a petition for writ of mandamus, as Jarmuth may appeal the district court's adverse order upon final judgment. See In re Catawba Indian Tribe, 973 F.2d 1133, 1135-36 (4th Cir. 1992); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED